

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JEFFREY KRAHN,	§
	§ No. 701, 2010
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0804036086
	§
Plaintiff Below-	§
Appellee.	§

Submitted: September 23, 2011

Decided: October 11, 2011

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 11<sup>th</sup> day of October 2011, upon consideration of the briefs of the parties and the record below, it appears to the Court that:

(1) The defendant-appellant, Jeffrey Krahn, filed an appeal from the Superior Court’s October 6, 2010 order adopting the Commissioner’s September 13, 2010 report, which recommended that Krahn’s first postconviction motion pursuant to Superior Court Criminal Rule 61 be denied.<sup>1</sup> We find no merit to the appeal. Accordingly, we affirm.

(2) The record before us reflects that, in June 2008, Krahn was indicted on charges of Assault in the First Degree, Reckless Endangering in

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<sup>1</sup> Del. Code Ann. tit. 10, §512(b); Super. Ct. Crim. R. 62.

the First Degree and two counts of Possession of a Deadly Weapon During the Commission of a Felony in connection with an attack on two probation officers. On January 21, 2009, following his decision to enter a guilty plea, Krahn became emotionally upset and had an altercation in the courthouse. The Superior Court postponed the guilty plea colloquy until a later date. On February 4, 2009, Krahn pleaded guilty to Assault in the First Degree and Reckless Endangering in the First Degree. After a presentence investigation, he was sentenced to a total of 31 years at Level V, to be suspended after 8 years for decreasing levels of supervision. Krahn did not file a direct appeal of his convictions.

(3) In this appeal from the Superior Court's denial of his first postconviction motion,<sup>2</sup> Krahn claims that a) his trial counsel failed to utilize his mental/emotional disorders as a defense strategy; b) the trial court did not pursue the issue of his competency; c) his trial counsel coerced him into accepting a plea agreement; and d) his assault conviction is faulty because he was acting in self-defense.<sup>3</sup> To the extent that Krahn has failed to raise

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<sup>2</sup> Because this was Krahn's first postconviction motion, the Superior Court requested that Krahn's counsel submit affidavits in response to his claims of ineffective assistance of counsel. Rule 61(g) (2); *Horne v. State*, 887 A.2d 973, 975 (Del. 2005).

<sup>3</sup> This final claim is contained in an amendment to Krahn's reply brief filed on August 17, 2011.

additional claims that were presented to the Superior Court, those claims are deemed to be waived and will not be addressed by this Court.<sup>4</sup>

(4) In order to prevail on a claim of ineffective assistance of counsel within the context of a guilty plea, the defendant must demonstrate a reasonable probability that, but for his counsel's errors, he would not have pleaded guilty, but would have insisted on proceeding to trial.<sup>5</sup> We have reviewed the transcript of Krahn's guilty plea. It reflects that Krahn expressly stated that it was in his best interest to enter the plea, that he had committed the crimes to which he was pleading guilty and that he understood the consequences of pleading guilty. Krahn confirmed that no one had coerced him into accepting the guilty plea. In the absence of clear and convincing evidence to the contrary, Krahn is bound by those representations.<sup>6</sup>

(5) Krahn has presented no support for his claim that he would not have pleaded guilty but for error on the part of his counsel. He received a clear benefit when the State dismissed his weapon charges as part of the plea bargain. Finally, Krahn's claim of self-defense is unavailing, since his voluntary guilty plea constitutes a waiver of any claims of error or defect

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<sup>4</sup> *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993).

<sup>5</sup> *Albury v. State*, 551 A.2d 53, 60 (Del. 1988).

<sup>6</sup> *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).

occurring prior to the entry of his plea.<sup>7</sup> In the absence of any error or abuse of discretion on the part of the Superior Court in denying Krahn's postconviction claims, we conclude that the judgment of the Superior Court must be affirmed.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice

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<sup>7</sup> *Downer v. State*, 543 A.2d 309, 312-13 (Del. 1988).